

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION)	CIVIL ACTION: 01-CV-12257-PBS
)	Subcategory Docket: 06-CV-11337-PBS
)	
THIS DOCUMENT RELATES TO)	Judge Patti B. Saris
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>)	
<i>Inc. v. Abbott Laboratories, Inc.,</i>)	Magistrate Judge Marianne B. Bowler
No. 06-CV-11337-PBS)	
)	ORAL ARGUMENT REQUESTED

**ABBOTT LABORATORIES, INC.'S MOTION FOR
A FINDING OF SPOILIATION AND FOR SANCTIONS**

Defendant Abbott Laboratories, Inc. (“Abbott”) hereby respectfully asks—pursuant to Federal Rules of Civil Procedure 34 and 37, and the Court’s inherent power to oversee discovery and prevent spoliation and litigation abuses—that this Court issue an order (1) finding that the United States has spoliated evidence in this case and that sanctions are warranted and (2) issuing appropriate sanctions.

The grounds supporting the requested relief, and recommended sanctions, are provided in the accompanying memorandum.

Dated: June 4, 2009

Respectfully submitted,

/s/ James R. Daly

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CERTIFICATE OF SERVICE

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing ABBOTT LABORATORIES, INC.'S MOTION FOR A FINDING OF SPOLIATION AND FOR SANCTIONS to be served on all counsel of record electronically by causing same to be posted via LexisNexis, this 4th day of June, 2009.

/s/ David S. Torborg
David S. Torborg